IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

RP.No. 576 of 2007()

AGAINST THE JUDGMENT IN MACA.NO.2121/2005 & CO.80/2006 Dated 03/04/2007
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REVIEW PETITIONER/APPELLANT

C.SHAMEER, S/O.P.P.KHADER,
MADATHIL HOUSE, KOTTAM,
P.O.MUNDALOOR, VIA.KADACHIRA.

BY ADV. SRI.M.SASINDRAN
SRI.M.V.BIPIN

RESPONDENTS/RESPONDENTS
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1. K.C.GEETHA, W/O.MOHANAN,
POURNAMI, ATTADAPPA P.O., KANNUR.

2. MOUVANCHERI GOPALAN,
KOTTAYI HOUSE, KUTHUPARAMBA AMSOM,
MOORIYAD DESOM, P.O.KUTHUPARAMBA.

3. THE ORIENTAL INSURANCE CO.LTD.,
KANNUR.

R3 BY ADV. SRI.VPK.PANICKER

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC JJ.

R.P.NO.576 OF 2007 IN
CROSS OBJECTION 80 OF 2006 IN
M.A.C.A.NO.2121 OF 2005

Dated this the 4th day of July, 2007

O R D E R

Raman,J.

This petition is filed seeking review of the judgment rendered in M.A.C.A.No.2121/05 and Cross Objection No.80/06. It is the contention of the petitioner that in the absence of a permission granted under Section 170 of the Kerala Motor Vehicles Act, the Insurance Company could not raise any ground other than those specified under Section 149 (2) of the Act in any appeal they could file against the award. Same inhibition applies to the cross objection also. In so far as no such permission under Section 170 of the Kerala Motor Vehicles Act was obtained by the Insurance Company, it is contended that no reduction in the percentage of disability could have been made by this Court while disposing the matter.

2. We have heard both sides.

3. It is true that a cross appeal or cross objection under Order 41 Rule 22 could be filed against the award by raising such grounds which could have taken in the appeal. But in this case no error apparent on the face of the record has crept in, since in the appeal filed by the

claimant, his specific contention was that the percentage of disability fixed by the court below at 15% was low and it is at his instance that this Court at the time of admission referred the matter to the Medical Board and the Medical Board has forwarded their certificate to this Court certifying the disability at 10%. This Court, instead of remanding the matter and to avoid further delay, considered the said certificate and granted relief. We do not find any ground for review.

Review Petition is dismissed.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.